



H.C.P(MD)No.2 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.07.2023

CORAM :

THE HONOURABLE MR JUSTICE M.S.RAMESH
AND
THE HONOURABLE MR JUSTICE M.NIRMAL KUMAR

H.C.P(MD)No.2 of 2023

B.Menaka

.. Petitioner

vs.

1.State of Tamil Nadu,
The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.

2.The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Thanjavur District, Thanjavur.

3.The Superintendent of Prison,
Central Prison, Trichy.

4.The Inspector of Police,
Kumbakonam Taluk Police Station,
Thanjavur District.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the entire records pertaining to the detention order passed by the second respondent in P.D.No.141/2022, dated



03.10.2022 and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's son namely Prasanna, S/o.Baskar, aged about 27 years, who is detained in Central Prison, Thirichirappalli before this Court and set him at liberty.

For Petitioner : Mr.B.Senthilkumar

For respondents : Mr.A.Thiruvadi Kumar,
Additional Public Prosecutor

ORDER

[Order of the Court was made by M.S.RAMESH, J.]

The petitioner is the mother of the detenu viz., Prasanna, S/o.Baskar, aged about 27 years. The detenu has been detained by the second respondent by order in P.D.No.141/2022, dated 03.10.2022, holding him to be a 'Drug Offender', as contemplated under Section 2(e) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.



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3. Among other grounds, the detention order is mainly attacked on the ground that there is a delay in passing the order of detention. The learned counsel appearing for the petitioner strongly contended that though the detenu was arrested on 05.08.2022, the detention order was passed only on 03.10.2022 i.e., after a considerable delay of nearly two months. Therefore, the detention order has to be set aside.

4. As seen from the grounds of detention, it is clear that though the detenu was arrested on 05.08.2022, the order of detention came to be passed only on 03.10.2022 and hence, there is an abnormal delay in passing the order of Detention, which caused prejudice to the interest of the detenu.

5. We have gone through the entire materials placed on record. There is no satisfactory explanation offered by the Detaining Authority for the delay in passing the order of detention. Hence the impugned order of detention is liable to be set aside.



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6. In the result, the Habeas Corpus Petition is allowed and the order of detention in P.D.No.141/2022, dated 03.10.2022, passed by the second respondent is set aside. The detenu, viz., Prasanna, S/o.Baskar, aged about 27 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(M.S.R., J.) (M.N.K., J.)
13.07.2023

NCC : Yes/No
Index : Yes/No
Speaking/Non-speaking order

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- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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